

News and Information

from the Tennessee Division of Consumer Affairs

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UPTON'S AGREES TO CURTAIL GOING-OUT-OF-BUSINESS SALES, PAY TENNESSEE \$15,000

Upton's, Inc. has agreed to stop advertising and conducting going-out-of-business sales that last longer than 90 days and to pay Tennessee \$15,000 for penalties and costs of the investigation.

Upton's, a Delaware-based retailer with stores in Nashville, Franklin, Jackson and Memphis, announced on July 21, 1999 that it would be going out of business. When the Consumer Protection Division of the Tennessee Attorney General's Office inquired about the date the business would close, Upton's allegedly failed to respond in a timely manner. The stores continued advertising going-out-of-business sales through December 13 when the Tennessee stores closed although Tennessee Consumer Protection Laws prohibit going-out-of-business sales lasting longer than 90 days in most cases.

One exception to the law is when a company has obtained a municipal liquidation sale permit in a city that requires such a permit and even in those areas, the sale cannot be longer than 120 days. The only Upton's store covered by a municipal permit was the Memphis location. The State contends that Upton's advertised and conducted its going-out-of-business sale for 145 days.

Upton's admitted no wrongdoing under the settlement agreement.

"The Tennessee Attorney General's Office appreciates the cooperation of Uptons in reaching this settlement," Tennessee Attorney General Paul G. Summers said today.

After the company announced it was going out of business, it also allegedly refused to accept returns for items purchased during its previous refund policy. Upton's had previously allowed returns for items at any time with a receipt. As part of the settlement agreement, Upton's has agreed to pay refunds to any consumer who was refused a refund under the store's previous refund policy.

"This settlement ensures that Upton's will live up to its original commitment to its customers," Commerce and Insurance Commissioner Anne Pope said. "As the consumer advocate for all Tennesseans, part of our statutory obligation is to see that consumers and businesses are both treated fairly."

In addition, about 150 people will receive a total of \$3,000 in refunds because they have a credit balance on their Upton's credit card. These consumers should already have received their checks. Anyone who has a gift certificate or paid on a lay-away but didn't receive it is also eligible for a refund.

Consumers experiencing problems can file a complaint with the Department of Commerce and Insurance's Consumer Affairs Division by writing to Tennessee Division of Consumer Affairs, 500

Division of Consumer Affairs

Page 2 of 2

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